

**APLIN SUBDIVISION
FIVE-LOT MINOR SUBDIVISION AND VARIANCE REQUEST
STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

CASE PLANNER: Randy Fifrick *RF*

**REVIEWED/
APPROVED BY:** John Lavey *JL*

**PUBLIC HEARINGS/
MEETINGS:**

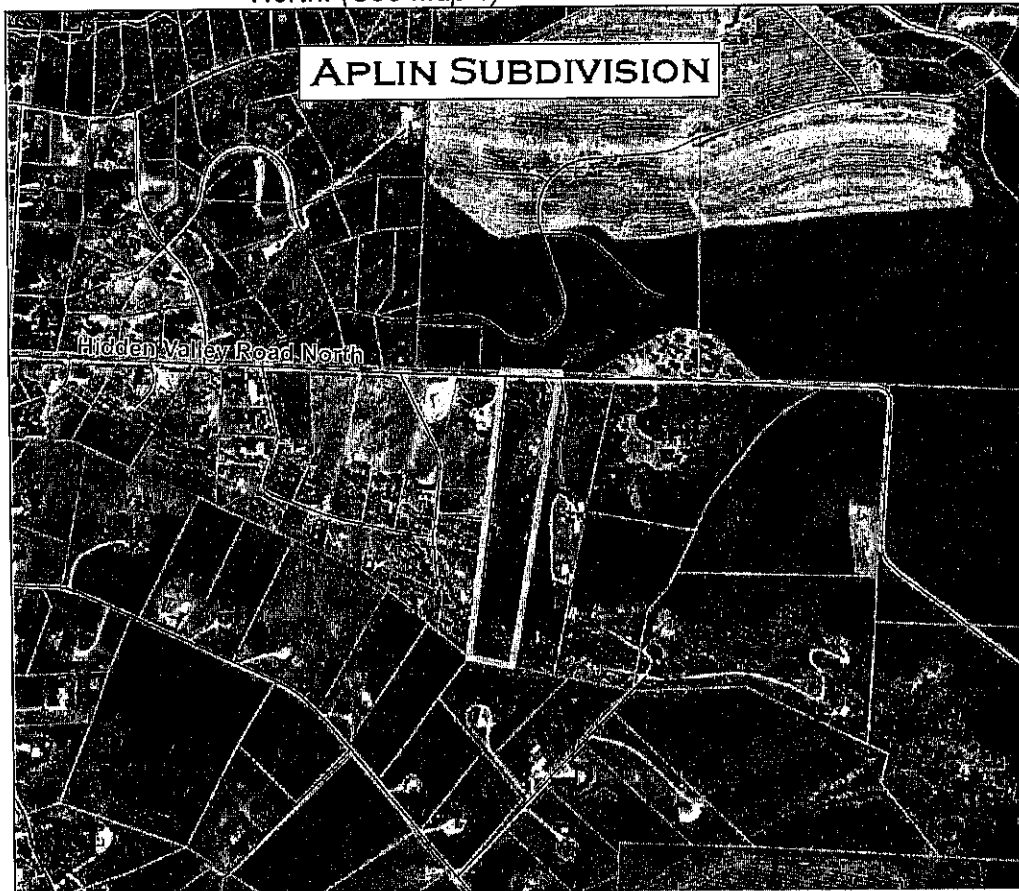
BCC Public Meeting:
Deadline for BCC action:

9:00 a.m. March 13, 2008
March 24, 2008

APPLICANT: Robert & Margaret Aplin
PO Box 473
Florence, MT 59870

REPRESENTATIVE: Applebury Survey
914 Highway 93
Victor, MT 59875

LOCATION OF REQUEST: The property is located east of Florence off Hidden Valley Road North. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A portion of the NW ¼ of Section 16, T10N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on February 1, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-10 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked February 13, 2008. One public comment has been received to date. (Exhibit B-1).

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Open Land/Approved Subdivision
South	Residential
East	Residential
West	Residential

INTRODUCTION

The Aplin Subdivision will result in five residential lots on 10.66 acres, located approximately 3 miles east of Florence. The applicants will be building an internal subdivision road, Tomasina Road, and improving a portion of Hidden Valley Road North that leads to the subdivision.

Concurrent with the subdivision proposal, the applicant is requesting a variance from Section 5-4-4 (h)(Table B-1) of the Ravalli County Subdivision Regulations, which requires the applicant to establish that "the minimum right-of-way width for a rural collector road or a local road is 60 feet".

Staff recommends approval of the variance and conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COMMISSIONERS
MARCH 13, 2008**

**APLIN SUBDIVISION
FIVE-LOT MINOR SUBDIVISION AND VARIANCE REQUEST**

RECOMMENDED MOTIONS

1. That the variance request from Sections 5-4-5(h), Table B-1, (easement width) be **approved**, based on the findings of fact and conclusions of law in the staff report.
2. That the Aplin Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture*)

Notification of Road Maintenance Agreement. Ravalli County, the State of Montana, or any other governmental entity does not maintain Hidden Valley Road North or the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. This subdivision is party to Road Maintenance Agreement(s) for these roads that were filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety*)

Notification of "very limited" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils are included as exhibits to this document. (The applicant shall include the exhibits as attachments) (*Section 3-2-8(b)(v), Effects on Public Health and Safety*)

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration, as shown on the plat, to restrict building in the natural drainage. No new structure, with the exception of fences, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Necessary weed control, development of native vegetation, and the installation or maintenance of irrigation infrastructure may occur therein. Roads, trails, and utility crossings through this area are not permitted. The no-build/alteration zone takes effect upon preliminary approval of the subdivision. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

Notification of Water Rights. Lots within this subdivision do not have any water rights. Taking water without a water right for irrigation purposes is illegal. (*Section 3-2-8(b)(v), Effects on Agricultural Water User Facilities*)

Notification of Utility Easements. Within this subdivision there are utility easements. No structure shall be allowed to encroach into or set upon the utility easements. The utility easements shall remain unobstructed and accessible at all times. (*Section 3-2-8(b)(v), Effects on Local Services*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, moose, bear, mountain lion, coyote, fox, skunk and raccoon. Contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see the Education portion of FWP's web site at www.fwp.mt.gov. (*Section 3-2-8(b)(v), Effects on Wildlife & Wildlife Habitat, Effects on Natural Environment*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. All garbage should be stored indoors or in bear-resistant containers, structures or storage areas. If stored indoors, garbage cans should not be set out until the morning of garbage pickup, and should be taken back indoors that same day, after garbage has been picked up. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant containers or structures.
- d. Bears can be attracted to food smells associated with outdoor food storage; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- e. Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily

accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

- f. Birdseed is an attractant to bears. Consider not using bird feeders in this area from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined or indoors also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. Pet food and livestock feed must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, and other wildlife. When feeding pets and livestock do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. Barbecue grills should be stored indoors, and permanent outdoor barbecues grills should not be used in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- j. Consider boundary fencing that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- k. Compost piles can attract skunks and bears and should be avoided in this subdivision. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- l. Apiaries (bee hives) could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Riparian use guidelines. A no build/alteration zone beginning at the northern edge of the wooded natural drainage extending to the western, northern, and southern property boundaries to protect any associated wetland and/or riparian areas. Encouraging the development of native vegetation (including shrubs and trees)--while discouraging actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and livestock grazing--would help preserve the functionality of this natural drainage, protect and improve wetland

vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. (*Effects on the Natural Environment and Wildlife & Wildlife Habitat*)

The following covenants, designed to guide use of this no build/alteration zone, shall apply:

- a. No new building or alteration is allowed in the zone.
- b. Only non-motorized access and use of the buffer zone is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope stability, and dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In general, keep livestock out of the natural drainage, and do not include the drainage in corrals. Use fences to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
- g. In summary, allow riparian areas--the natural drainage and its buffer zone--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- h. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (*Section 3-2-8(b)(v), Effects on Natural Environment*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v), Effects on Public Health & Safety*)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v), *Effects on Agriculture and Natural Environment*)

Posting of County-Issued Addresses for Lots within this Subdivision. The Florence Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the accessway leading to each lot as soon as construction on the structure begins. (Section 3-2-8(b)(v), *Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Florence Rural Fire District has adopted the Fire Protection Standards. All accesses over 150' in length must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information. (Section 3-2-8(b)(v), *Effects on Local Services and Public Health & Safety*)

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. (Section 3-2-8(b)(v), *Effects on Local Services and Public Health & Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (Section 3-2-8(b)(v), *Effects on Natural Environment*)

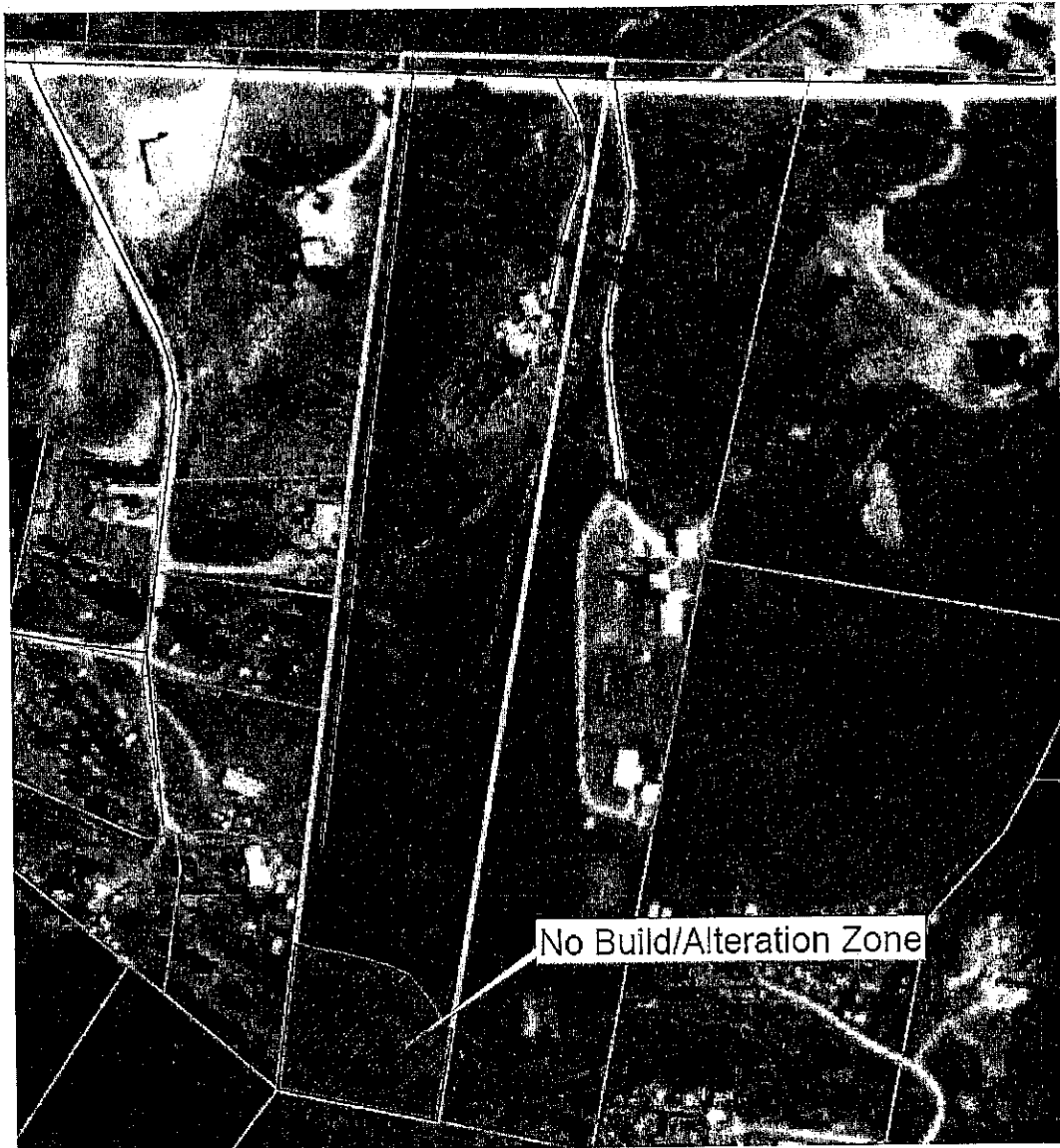
Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (Section 3-2-8(b)(v), *RCSR, Impacts on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (Section 3-2-8(b)(v), *Effects on all six criteria*)

3. The applicants shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by

law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v), Effects on Local Services*)

4. The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the applicants shall provide a letter from the Florence Rural Fire District stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the applicants may provide evidence that a \$500-per-lot contribution has been made to the Florence Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
7. The applicant shall submit a letter or receipt from the Florence-Carleton School District stating that they have received an (amount)-per-new-lot contribution prior to final plat approval. (*Section 3-2-8(b)(v), Effects on Local Services*)
8. The applicant shall submit an (amount)-per-new-lot contribution made prior to final plat approval to an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health and Safety*)
9. Prior to final plat approval, the applicant shall submit an updated road maintenance agreement (RMA) for Hidden Valley Road North, which shall replace the RMA that was recorded August 9, 2007 (Document # 592987) through final plat approval for the Paradise Acres IV Subdivision or any subsequent version. The updated RMA shall state that owners of the lots within the Aplin Subdivision are party to the RMA. Alternatively, the applicant can provide evidence showing that the current parties listed in the existing RMA will not allow additional parties to join the agreement. (*Section 3-2-8(b)(v), Effects on Local Services*)
10. The final plat shall show a no build/alteration zone beginning at the northern edge of the wooded natural drainage extending to the western, eastern, and southern property boundaries to protect any associated wetland and/or riparian areas (See Map 2: No Build/Alteration Zone). (*Section 3-2-8(b)(v), Effects on Natural Environment and Wildlife and Wildlife Habitat*)
11. As proposed by the applicant, Tomasina Road shall be labeled as a "60' public road and utility easement" on the final plat. (*Section 3-2-8(b)(v), Effects on Local Services*)



Map 2: No Build/Alteration Zone
(Source Data: Ravalli County GIS Department)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:
 - a) Project name
 - b) Title block
 - c) Certificate of registered owner – notarized
 - d) Certificate of registered land surveyor with seal
 - e) Certificate of governing body approval
 - f) Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g) Certificate of public dedication
 - h) Certificate of park cash-in-lieu payment
 - i) Other certifications as appropriate
 - j) North arrow
 - k) Graphic scale
 - l) Legal description
 - m) Property boundaries (bearings, lengths, curve data)
 - n) Pertinent section corners and subdivision corners
 - o) Names of adjoining subdivisions/certificates of survey
 - p) Monuments found
 - q) Witness monuments
 - r) Acreage of subject parcel
 - s) Curve data (radius, arc length, notation of non-tangent curves)
 - t) Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - u) Lots and blocks designated by number (dimensions/acreage)
 - v) Easements/rights of ways (location, width, purpose, ownership)
 - w) No-ingress/egress zones
 - x) Irrigation canals including diversion point(s), etc.
 - y) Existing and new roads (names, ownership, etc.)
 - z) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat. (*Prerequisite to Approval A*)
 - aa) The easements for the internal roads shall be labeled as 60-foot wide public road and utility easement on the final plat.
 - bb) The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". (*Condition 6*)
 - cc) The no build/alteration zone shall be shown on the final plat. (*Condition 10*)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.

5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A Copy of the appraisal report, dated no less than six (6) months from the date of the final plat submittal, for calculating the cash-in-lieu or parkland dedication and a receipt from the County Treasurers Office for the payment of the cash-in-lieu dedication.
13. Evidence of a Ravalli County-approved road name petition(s) for each new road.
14. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
15. Utility availability certification(s) shall be submitted with the final plat submittal.
16. Road maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal. In accordance with Condition 9, the applicant shall provide the necessary road maintenance agreement(s).
 - Portion of Hidden Valley Road North between The proposed Tomasina Road and Heaven's Way and The proposed Tomasina Road
 - Updated Road Maintenance Agreement for Paradise Acres 4 for the section of Hidden Valley Road North between Hidden Valley Road and Heaven's Way
17. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
18. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
19. A copy of the letter sent to the Florence-Carlton School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal.
20. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2). The following improvements are proposed with this proposal:
The applicant shall improve all internal roads to meet County standards (addressed above).
 - The applicant shall hard surface the portion of Heaven's Way from the existing cul-de-sac to the entrance for Remington Ridge prior to final plat approval.
 - Stop and road name signs shall be installed at the intersections of the internal roads.
21. The applicant shall provide evidence that the pro rata share of the cost to improve the portion of Hidden Valley Road leading to the subdivision has been paid prior to final plat approval. (Section 5-4-5(d), RCSR)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located within the easements for Hidden Valley Road North and the proposed Tomasina Road. (Application)
2. The internal road will be located within a proposed 60-foot wide public road and utility easement. (Condition 11, Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, and the proposed Tomasina Road. (Application)
2. Eastside Highway is a State highway that provides legal and physical access. (MDT)

Hidden Valley Road

3. Hidden Valley Road is a County-maintained road that provides legal and physical access. (Exhibit A, RCSR)
4. *The applicant is required to pay the pro rata share of the cost to improve Hidden Valley Road to meet County standards. (Requirement 21)*

Hidden Valley Road North

5. Hidden Valley Road North is a privately-maintained County standard road. (Application)
6. The Ravalli County Attorney's Office (CAO) determined that there is legal access via Hidden Valley Road North. (Exhibit A-1)
7. Because the road is not identified as a County-maintained road in Exhibit A of the RCSR, the applicant is required to provide evidence that Hidden Valley Road North currently meets County standards or actually improve the road to meet County standards prior to final plat approval. (RCSR Sections 5-4-5(a) and (e))
8. The Road Department has determined that Hidden Valley Road North meets County standards for the existing traffic plus the proposed traffic from Aplin Subdivision, except for proof that it lies within a 60-foot public road easement. (Exhibit A-9)
9. The applicant is requesting a variance from providing evidence that there is a 60-foot wide public road easement for the entire portion of Hidden Valley Road North leading to the subdivision and staff is recommending approval. (See Variance Report)
10. The applicant will be required to hard surface the portion of Hidden Valley Road North between Heaven's Way and the proposed Tomasina Road. (RCSR Section 5-4-5(b)(2))
11. An existing road maintenance agreement was filed for Hidden Valley Road North with the Paradise Acres Phase IV subdivision (Exhibit A-2).

12. A notification of road maintenance agreement(s) shall be included in the notifications document. (Condition 1)
13. Prior to final plat approval, the applicant shall submit an updated road maintenance agreement (RMA) for Hidden Valley Road North, which shall replace the RMA that was recorded August 9, 2007 (Document # 592987) through final plat approval for the Paradise Acres IV Subdivision or any subsequent version. The updated RMA shall state that owners of the lots within the Aplin Subdivision are party to the RMA. Alternatively, the applicant can provide evidence showing that the current parties listed in the existing RMA will not allow additional parties to join the agreement. (Condition 9)
14. The applicant will be required to submit a road maintenance agreement for the stretch of Hidden Valley Road North from Heaven's Way to Tomasina Road. (Requirement 16)
15. Prior to final plat approval the applicant will be required to hard surface the stretch of Hidden Valley Road North from Heaven's Way to Tomasina Road. (Requirement 20)

Tomasina Road

16. The applicant is proposing to construct the internal road, Tomasina Road, to meet County standards. The Ravalli County Road and Bridge Department has issued preliminary approval of the road plans. (Application)
17. The applicant has submitted a preliminary Road Maintenance Agreement for the internal road. (Application)
18. To ensure physical access on the internal subdivision roads, final approval from the Ravalli County Road and Bridge Department that the internal road was constructed to meet County standards shall be submitted with the final plat. This packet shall include final road plans and grading and storm water drainage plans, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 14)
19. To further ensure physical access, the applicant shall submit a road maintenance agreement for Tomasina Road. (Requirement 16)

Conclusion of Law

With the conditions and requirements of final plat approval, legal and physical access will be provided on Eastside Highway, Hidden Valley Road, Hidden Valley Road North, and Tomasina Road.

C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.

Findings of Fact

1. The applicant is proposing to construct Hidden Valley Road North and Tomasina Road as proposed in the road plans that have received preliminary approval from the Ravalli County Road and Bridge Department. (Application)
2. The applicant is required to install stop signs and road name signs at the intersection of Tomasina Road & Hidden Valley Road North prior to final plat approval. (Requirement 20)
3. The applicant is required to submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant prior to final plat approval. (Requirement 20)

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

1. There are no water rights associated with the subject property. (Application)
2. *To mitigate the effects on agricultural water users a notification of water rights shall be included in the notifications document. (Condition 1)*

Conclusion of Law

This requirement does not apply to the Aplin proposal.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no irrigation ditches on or within 300 feet of the subject property. (Application)

Conclusion of Law

This requirement does not apply to the Aplin Subdivision proposal.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

1. All lots within the subdivision are proposed for residential use. (Application)
2. The applicant proposed cash-in-lieu of parkland dedication. (Application)
3. The applicant is required to donate .53 acres of parkland (Application)

Conclusion of Law

With the acceptance of a cash-in-lieu payment, the parkland requirement will be met.

- G. Overall Conclusion on Prerequisite Requirements**

With the conditions and requirements of final plat approval, there is credible evidence that the subdivision application meets the prerequisite requirements.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

- A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

Findings of Fact

1. The subdivision proposal meets the design standards in Chapter 5 of the RCSR, except for the easement width of Hidden Valley Road North. The applicants have requested a variance from providing evidence that there is a 60-foot wide public road easement for Hidden Valley Road North and staff is recommending approval. (Application)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR.

Conclusions of Law

1. With approval of the variance, the preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Application)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Findings of Fact

There are no existing covenants on the property. (Application)

Conclusion of Law

Compliance with covenants is not applicable.

D. Other applicable regulations.

Findings of Fact

1. Following are applicable regulations:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. *Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)*

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 10.66 acres will result in five lots that range in size from 2.0 acres to 2.3 acres. The property is located approximately 3 miles east of the community of Florence off Hidden Valley Road North. (Application)
2. The subject property is located in an area with a mix of residential and agricultural uses. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
3. There is no prime farmland or farmland of statewide importance on the property. (Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))

4. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Spotted Knapweed was present on the property. (Application)
5. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
6. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. The application states that there are no water rights associated with the property. (Application)
2. There are no irrigation ditches/facilities within 300 feet of the proposal. (Application)
3. *To mitigate the effects on agricultural water users a notification of water rights shall be included in the notifications document. (Condition 1)*

Conclusion of Law

There will be minimal, if any, impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the jurisdiction of the Florence Rural Fire District. (Application)
2. Notification letters were sent to the Florence Rural Fire District requesting comments on February 16, 2007 and February 13, 2008. (Subdivision File)
3. Comments were received from the Florence Fire Chief, Dan Martin, on February 28, 2007. The Florence Fire Department requested that all roads be built to county standard. (Exhibit A-10)
4. The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire Department) that address access, posting of addresses, and water supply requirements. The Fire Council also recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Exhibit A-3)

5. *The following conditions will mitigate impacts of the subdivision on the Florence Rural Fire Department:*

- *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
- *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Condition 2)*
- *Prior to final plat approval, the applicants shall provide a letter from the Florence Rural Fire Department stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for the additional lot. Alternatively, the applicants may provide evidence that \$500 has been contributed to the Florence Rural Fire Department with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
- *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Florence Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire Department for further information". (Condition 6)*

School District

6. The proposed subdivision is located within the Florence-Carlton School District. (Application)
7. It is estimated that 2 school-aged children will be added to the Florence-Carlton School District, assuming an average of 0.5 children per household. (Census 2000)
8. In a letter dated February 14, 2008, John McGee, Superintendent of the Florence-Carlton School District, stated that the School District is requesting a fee of \$10,418 per lot. This fee is based on an impact fee study. The County has yet to adopt impact fees. (Exhibit A-4)
9. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the tax levy per pupil, excluding capital, would be \$2,239 for the Florence-Carlton School District. (Exhibit A-5)
10. Ernie Jean, County Superintendent, sent a letter to the Ravalli County Commissioners stating that Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turnaround if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-6)
11. A bus turnout may be installed as part of final plat approval for Remington Ridge Subdivision that could be utilized by students in the subdivision. (Remington Ridge PPD)
12. Considering that Hidden Valley Road North and Tomasina Road are privately-maintained roads, the number and size of the lots of the proposal, and the districts policy of not traveling on private roads, the Planning Department determined that a bus turnout is not necessary for this subdivision. (Staff Determination)
13. *To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Florence-Carlton School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 7 and Final Plat Requirement 21) (Staff Note: Since the applicants and the School District did not agree on an amount, staff recommends that the BCC negotiate an amount with the applicant and include the appropriate finding(s) supporting the amount in their decision.)*

Water and Wastewater Districts

14. Individual wells and wastewater treatment systems are proposed to serve the lots. (Application)

15. The property is not near any municipal water or wastewater systems. (Application)

Public Safety

16. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)

17. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on February 16, 2007 and February 13, 2008, but no comments have been received from the Sheriff's Office. (Subdivision File)

18. The average number of people per household in Ravalli County is 2.5. (Census 2000)

19. *To mitigate impacts on local services, the applicant shall submit an (amount)-per-lot contribution made prior to final plat into an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. (Condition 8)*

Emergencies Services

20. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department and/or Missoula Emergency Services. Notifications were sent to Marcus Daly and Missoula Emergency Services requesting comments on February 16, 2007 and February 13, 2008, but no comments have been received from the Sheriff's Office. (Subdivision File)

21. *To mitigate impacts on emergency services, the applicant shall provide evidence with the final plat submittal that they have applied for a County-issued address for each lot within the subdivision. (Condition 4)*

Solid Waste Services

22. Bitterroot Disposal provides solid waste service to this site. (Application)

23. Notification letters were sent to Bitterroot Disposal requesting comments on February 16, 2007 and February 13, 2008, but no comments have been received to date. (Subdivision File)

Utilities

24. The proposed subdivision will be served by Ravalli Electric Coop and Qwest Communications. (Application)

25. Notification letters were sent to both utility companies requesting comments on February 16, 2007 and February 13, 2008, but no comments have been received to date. (Subdivision File)

26. *The following requirements will mitigate impacts of the subdivision on local utilities:*

- A notification of utility easements shall be included in the notifications document. (Condition 1)
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
- *The applicant shall submit utility availability certifications from Ravalli Electric Coop and Qwest Communications prior to final plat approval. (Final Plat Requirement 15)*

Roads

27. It is estimated that this subdivision will generate an additional 32 trips per day. (Application)

28. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, and Tomasina Road. (Application)

29. Eastside Highway is a State highway that provides legal and physical access. (MDT)

Roads- Hidden Valley

30. Hidden Valley Road is a County-maintained road that provides legal and physical access. (Exhibit A, RCSR)

31. *The applicant is required to pay the pro rata share of the cost to improve Hidden Valley Road to meet County standards. (Final Plat Requirement 21)*

Roads- Hidden Valley Road North

32. Hidden Valley Road North is a privately-maintained County standard road. (Application)

33. The Ravalli County Attorney's Office (CAO) determined that there is legal access via Hidden Valley Road North. (Exhibit A-1)
34. Because the road is not identified as a County-maintained road in Exhibit A of the RCSR, the applicant is required to provide evidence that Hidden Valley Road North currently meets County standards or actually improve the road to meet County standards prior to final plat approval. (RCSR Sections 5-4-5(a) and (e))
35. The Road Department has determined that Hidden Valley Road North meets County standards for the existing traffic plus the proposed traffic from Aplin Subdivision, except for proof that it lies within a 60-foot public road easement. (Exhibit A-9)
36. The applicant is requesting a variance from providing evidence that there is a 60-foot wide public road easement for the entire portion of Hidden Valley Road North leading to the subdivision and staff is recommending approval. (See Variance Report)
37. The applicant will be required to hard surface the portion of Hidden Valley Road North between Heaven's Way and the proposed Tomasina Road. (RCSR Section 5-4-5(b)(2))
38. An existing road maintenance agreement was filed for Hidden Valley Road North with the Paradise Acres Phase IV subdivision (Exhibit A-2).
39. *A notification of road maintenance agreement(s) shall be included in the notifications document. (Condition 1)*
40. *Prior to final plat approval, the applicant shall submit an updated road maintenance agreement (RMA) for Hidden Valley Road North, which shall replace the RMA that was recorded August 9, 2007 (Document # 592987) through final plat approval for the Paradise Acres IV Subdivision or any subsequent version. The updated RMA shall state that owners of the lots within the Aplin Subdivision are party to the RMA. Alternatively, the applicant can provide evidence showing that the current parties listed in the existing RMA will not allow additional parties to join the agreement. (Condition 9)*
41. *The applicant will be required to submit a road maintenance agreement for the stretch of Hidden Valley Road North from Heaven's Way to Tomasina Road. (Requirement 16)*
42. *Prior to final plat approval the applicant will be required to hard surface the stretch of Hidden Valley Road North from Heaven's Way to Tomasina Road. (Requirement 20)*

Roads- Tomasina Road

43. The applicant is proposing to construct the internal road to meet County standards. The Ravalli County Road and Bridge Department has issued preliminary approval of the road plans. (Application)
44. The applicant has submitted a preliminary Road Maintenance Agreement for the internal road. (Application)
45. *To ensure physical access on the internal subdivision roads, final approval from the Ravalli County Road and Bridge Department that the internal road network was constructed to meet County standards shall be submitted with the final plat. This packet shall include final road plans and grading and storm water drainage plans, and a final letter of approval from the Ravalli County Road and Bridge Department. (Requirement 14)*
46. *To further ensure physical access, the applicant shall submit a road maintenance agreement for Tomasina Road. (Requirement 16)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on local services.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In an email dated December 31, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, and/or wood-burning stoves. There are no gravel roads accessing the subdivision. (Exhibit A-7)
2. *To mitigate impacts on air quality, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*

Ground Water Quality

3. The applicants are proposing individual wells and wastewater facilities. (Application)
4. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
5. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Surface Water Features

6. An unnamed natural drainage traverses the southern part of the parcel, through Lot 5. (Application, Site Visit, GIS data)
7. In a letter dated February 28, 2008, Montana Fish, Wildlife, and Parks stated the US Geological Survey map for this area indicates a natural drainage that runs roughly east to west through Lot 5 of the subdivision. (Exhibit A-8)
8. In order to protect this natural drainage feature and its function, FWP suggests consideration of the following: (Exhibit A-8)
 - A. Designating a 50-foot "no build/alteration" setback extending outward from each side of the centerline of this drainage.
 - B. Delineating and labeling this setback on the plat.
 - C. Adding protective (riparian) covenants to guide the use of this area.
9. *To mitigate the impacts on natural drainage:*
 - *The final plat shall show a no build/alteration zone beginning at the northern edge of the wooded natural drainage extending to the western, northern, and southern property boundaries to protect any associated wetland and/or riparian areas (See Map 2: No Build/Alteration Zone). (Condition 10)*
 - *A notification of the no build/alteration zone shall be included in the notifications document. (Condition 1)*
 - *The covenants shall include a riparian use guidelines section. (Condition 2)*

Light Pollution

10. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
11. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

12. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Spotted Knapweed was present on the property. The applicant has proposed a provision in the covenants that the owners of each lot control noxious weeds. (Subdivision Application)

13. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
14. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Application).
15. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Historical/Archeological Sites

16. The application states that there are no known sites of historical significance on the property. (Application)
17. *The covenants shall include an archeological resources section. (Condition 2)*

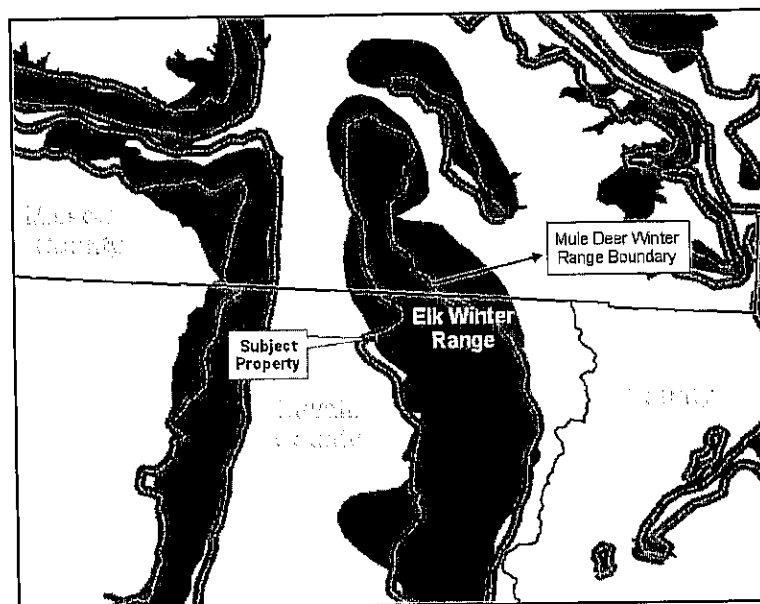
Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

1. In a letter dated February 28, 2008, Fish, Wildlife & Parks (FWP) stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-8)
2. FWP stated that wildlife such as white-tailed deer, mule deer, coyote, fox and skunk are found in the area, as well as possible black bear and possible mountain lion. (Exhibit A-8)
3. Map 3 shows elk and mule deer winter range boundaries in relation to Aplin Subdivision at a scale of 1:250,000. The data was created by FWP and the Rocky Mountain Elk Foundation at a scale of 1:250,000 and should not be used at a larger scale (zoomed in closer to Aplin Subdivision). At this scale, the property is located within mule deer and elk winter range.



Map 3: Elk and Mule Deer Winter Range
(Source Data: FWP)

4. Although the property is located within big-game winter range, FWP stated that it is located approximately 2.5 miles west of the forested foothills and is not heavily used by wintering elk. (Exhibit A-8)
5. According to Montana Natural Heritage Program (MNHP), the Lewis's Woodpecker was identified as species of concern as it have been known to exist in the same section as the proposed subdivision. (Application)
6. The applicant submitted and was granted a waiver from completing a sensitive species report because the applicant provided evidence that the subject property does not have habitat that would support the species in question. (Subdivision File)
7. *To mitigate impacts on wildlife and wildlife habitat, the following conditions shall be met:*
 - *The covenants shall include a living with wildlife section. (Condition 2)*
 - *The covenants shall include a riparian covenants section. (Condition 2)*
 - *The covenants shall include a provision recommending full cut-off lighting. (Condition 2)*
 - *The final plat shall show a no build/alteration zone beginning at the northern edge of the wooded natural drainage extending to the western, eastern, and southern property boundaries to protect any associated wetland and/or riparian areas (See Map 2: No Build/Alteration Zone). (Condition 9)*

Conclusion of Law:

With the mitigating condition of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. The subject property is accessed by Eastside Highway, Hidden Valley Road, Hidden Valley Road North, and Tomasina Road. (Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Florence Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, Marcus Daly Memorial Hospital EMS Department, and Missoula Emergency Services. (Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Requirement 9)*

Natural and Man-Made Hazards

7. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)

8. The addition of a residential home in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
9. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites.
10. *To mitigate possible impacts on public health and safety, the following conditions shall be met:*
 - *A notification of very limited soils shall be included in the notification document. (Condition 1)*
 - *The covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

VARIANCE REQUEST

The applicant is requesting a variance from Section 5-4-4 (h)(Table B-1) of the Ravalli County Subdivision Regulations, which requires the applicant to establish that "the minimum right-of-way width for a rural collector road or a local road is 60 feet". The Ravalli County Road and Bridge Department has determined that the road meets County standards, except for the 60-foot wide easement.

Variance Analysis

Section 7-3-5(a), RCSR, outlines two sets of criteria to be used in analyzing a variance request.

Prerequisite Variance Criteria

In order for a variance to be considered for approval, the BCC must first determine that the variance request meets these stipulations:

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

Variance Review Criteria

If and only if a positive determination is made on both of the prerequisite criteria, the BCC may then consider the variance for approval, based on the five variance review criteria:

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
- C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
- E. The variance will not cause a substantial increase in public costs.

Both sets of criteria were reviewed simultaneously. Findings for Prerequisite Criterion #1 are based on an analysis of Variance Review Criteria B and C. Findings for Prerequisite Criterion #2 are based on an analysis of Variance Review Criteria A, D, and E.

Five Variance Review Criteria

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

Findings of Fact:

1. Hidden Valley Road North is a privately-maintained road providing access to the subdivision. (Application)
2. The applicant will be required to hard surface the portion of Hidden Valley Road North between Heaven's Way and Tomasina Road. (RCSR Section 5-4-5(b)(2))
3. The applicant is required to prove that the road currently meets County standards or improve the road to meet County standards prior to final plat approval. The County standards include a requirement for a 60-foot wide public road easement. (Section 5-4-5(a) and (e), and 5-4-4, Table B-1, RCSR)
4. In 2007, the developers of the Paradise Acres IV Major Subdivision and Remington Ridge Major Subdivision submitted evidence that Hidden Valley Road North met the County road

standards in place at that time from the beginning of Hidden Valley Road to the intersection of Heaven's Way with Hidden Valley Road North. Based on that evidence, the Ravalli County Road and Bridge Department Supervisor has deemed that Hidden Valley Road North meets current County standards for the proposed Aplin Subdivision, except for the 60-foot wide public road easement. (Exhibit A-9)

Conclusions of Law:

1. The granting of the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties because Hidden Valley Road North meets the County standards for the current amount of traffic plus the proposed traffic from Aplin Subdivision, except for the 60-foot wide public road easement.
2. The existing easement is adequate because the developers are not required to make any improvements to Hidden Valley Road North that would require a full 60-foot wide easement.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. Currently, Hidden Valley Road North is not on the list of County-maintained roads. (Exhibit A, RCSR)
2. Legal counsel for the County has determined that Hidden Valley Road North is most likely a public road, but they have been challenged in finding the supporting records. (Exhibit A-1)
3. If Hidden Valley Road North is a public road, then it should be on the list of County-maintained roads, which would relieve the applicant from providing evidence or obtaining a 60-foot wide easement. (Exhibit A, RCSR)

Conclusion of Law:

The difficulty in determining the legal status of Hidden Valley Road North is a unique condition to the property.

C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

1. Because North Hidden Valley Road is not listed as a County-maintained road, the applicants are required to provide evidence that the road meets County standards or improve the road to meet County standards. (RCSR)
2. North Hidden Valley Road meets County standards for Aplin Subdivision, except for providing a public easement. (Application)
3. Legal counsel for the County has determined that Hidden Valley Road North is most likely a public road, but they have been challenged in finding the supporting records. (Exhibit A-9)
4. If Hidden Valley Road North is a public road, then it should be on the list of County-maintained roads, which would relieve the applicant from providing evidence or obtaining a 60-foot wide easement. (Exhibit A, RCSR)
5. The application states there is no physical condition which affects this variance request at all. (Application)

Conclusion of Law:

The confusion over the legal status is not a physical condition. No physical condition exists to prevent the applicant from meeting the strict letter of the law.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined in italics below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions. (Ravalli County Growth Policy)

***Countywide Goal 4:** Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.*

***Countywide Policy 4.4:** Improve and maintain existing infrastructure and public services.*

- Hidden Valley Road North has been deemed to meet County standards for the current traffic plus the proposed traffic for Aplin Subdivision, with the exception of easement width. Existing utilities are already located along the length of roadway providing access to the proposed subdivision. (Exhibit A-9, Application)

Conclusion of Law:

The subdivision proposal complies with applicable zoning regulation and the adopted Growth Policy.

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

1. The roadway meets current County standards with the exception of the easement width. (Exhibit A-9)
2. All improvements required by Chapter 5 of the RCSR shall be paid for by the developer. (RCSR 5-1-6)

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs.

Prerequisite Variance Criteria

A. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion B is that the difficulty in determining the legal status of Hidden Valley Road North is a unique condition to the property.
2. The conclusion for Criterion C is that the confusion over legal status is not a physical condition. No physical condition exists to prevent the applicant from meeting the strict letter of the law.

Conclusion of Law:

Strict compliance with these regulations will result in undue hardship.

B. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties because

Hidden Valley Road North meets the County standards for the current amount of traffic plus the proposed traffic from Remington Ridge, except for easement width.

2. The conclusions for Criterion D are that the variance request complies with applicable zoning regulations and does not vary from the provisions in the Growth Policy.
3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

C. Overall Conclusion on Hardship and Public Welfare

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

EXHIBIT A-1

From: Alex Beal
Sent: Friday, February 01, 2008 9:33 AM
To: Renee Lemon
Cc: Tristan Riddell
Subject: RE: Remington Ridge

In terms of a quick answer, let me try this...

In the great morass of convoluted road ownership questions that is Ravalli County, North Hidden Valley Road may be the most confusing. It was established by easement in 1978, COS #1758, document #234208. In what manner it was established is quite confusing. It may very well be a public roadway, then again, it may not. The legal issues surrounding this are unique and complex enough that I cannot even give a proper legal opinion as to whether it was a county road. In lieu of that, I would have to file a declaratory judgment action or an action in district court for quiet title to the road.

My educated guess is that it probably is a county road, however I cannot legally support that conclusion. What I can do, however, is say that there is, at a minimum, a public prescriptive easement for use of the road. As David has said that the condition of the road is sufficient, I would also recommend a granting of the variance regarding road width. It is, in essence, a variance I do not necessarily believe is even required, but which I cannot say for certain, is legally unnecessary. As David noted, future subdivisions may well need to demonstrate that there is a full 60' easement, especially if there are questions about the sufficiency of the roads structure.

Let me know if you need a further answer.

-Alex

EXHIBIT A-2

STATE OF MONTANA RAVALLI COUNTY
RECORDED: 08/09/2007 11:20 ROAD AGREE
REGINA PLETTENBERG CLERK AND RECORDER BY:

Jess Bennett

FEE: \$28.00

RETURN TO:

PCI
PO Box 1750
Missoula Mt 59806

ROAD MAINTENANCE AGREEMENT PARADISE ACRES PHASE 4

This Road Maintenance Agreement is made and entered into this 24th day of April, 2007, by and between the undersigned parties.

1. Parcels Joining Agreement. The undersigned parties, identified as "Owners," are the Owners of a parcel of land described as Lots 1 through 30 of Paradise Acres - Phase 4, a platted subdivision of Ravalli County, according to the official plat of record in the office of the Clerk and Recorder of Ravalli County, Montana. The Owners agree to bear the expense, on a pro rata basis, based on the number of Lots owned, for the repair and maintenance of certain roads as defined herein.

2. Road Maintenance In Concert with Others. It is Owner's intention that the Owners, through the Paradise Acres Phase 4 Homeowners' Association, (the "Association" perform road repair and maintenance, including dust control, snow removal, ordinary maintenance and repair in concert with the other phases of Paradise Acres and other benefited property owners on those roads known as follows:

- a. North Hidden Valley Road, from the county maintained Hidden Valley Road to the point where North Hidden Valley Road intersects Heavens Way;
- b. Blue Sky Lane, from North Hidden Valley Road to Creek Hollow Way;
- c. Creek Hollow Way from Blue Sky Lane to the point where Creek Hollow Way intersects with Moonbeam Way;
- d. Moonbeam Way, from North Hidden Valley Road to the point where Moonbeam Way intersects with Creek Hollow Way.
- e. Heavens Way, from North Hidden Valley Road to the point where Heavens Way intersects with the west boundary of Lots 28 and 26 of Paradise Acres Phase 4; and
- f. Starglow Lane.

In determining the Owner's and the Association's obligation for road maintenance, it is the intention of the Owners that the Lots located within Paradise Acres Phase 4 pay their proportionate share of said road maintenance expense in proportion to the total number of lots

benefited by such access roads, whether Lots are located within Phase 4 of Paradise Acres or not.

3. Road Maintenance At Owner's Sole Cost. It is Owner's intention that the Owners, through the Paradise Acres Phase 4 Homeowners' Association, perform road repair and maintenance, including dust control, snow removal, ordinary maintenance and repair at the sole expense of the Association and Owners on the following roads:

- a. Bielby's Highway;
- b. Heavens Way, from the west boundary of Lots 28 and 26 of Paradise Acres Phase 4 to its terminus; and
- c. Creek Hollow Way, from its intersection with Moonbeam Way to its easterly terminus.

4. Binding Effect. Road Maintenance Agreement is accepted by, agreed to and binding upon all Owners or purchasers under real estate installment sales contracts (contracts for deed) of parcels 1 through 30 of Paradise Acres Phase 4 made subject to this Agreement.

5. Obligation to share expenses. The obligation to provide periodic repair and maintenance shall include the obligation to provide repairs and maintenance and to pay expenses of repairs and maintenance performed by the undersigned or their successors and/or the appropriate contractor authorized by a majority of Owners. North Hidden Valley Road shall be maintained in accordance with county standards as set forth in Ravalli County Commissioners' Resolutions dated July 3, 1969; December 4, 1969; March 5, 1970; and Resolution No. 207 adopted November 16, 1978.

6. Maintenance and voting. All Owners and parties in interest under this Agreement shall be jointly and severally liable for the costs of such repairs and maintenance performed as provided upon the direction of the majority of Owners. Maintenance shall include reasonable dust control, snow removal, ordinary maintenance and any reconstruction necessary for safety. Such repairs and maintenance shall be performed or contracted for by a majority vote of the Owners or parties in interest. Each parcel designated shall have one vote. (Joint or common Owners of a parcel shall have one vote only.) The obligations and procedures to be invoked as to Owners of lots in Paradise Acres Phase 4 will be further defined in the Declaration of Protective Covenants which will be binding upon Owners of the property in the approved subdivisions.

7. Assessments. Assessments for repairs and maintenance shall be shared equally by the Owners of parcels designated by Subdivision Plat for the described property, plus other Owners of benefited parcels, utilizing the roads described herein including any person or parcel, who voluntarily agree to join a road maintenance agreement. The Owner of each separately described parcel shall pay a share and cost equal to the total assessment divided by the total

number of separately described parcels. Further subdivision of any parcels will create additional parcels to share the assessments under the stated formula.

Owners of property along any of the roads described above may join in the Road Maintenance Agreement with each separate parcel sharing one vote and prorata obligations. The costs of such repairs and maintenance shall be divided equally by the number of parcels in equal proportion. Joint Owners shall constitute one Owner for the purposes of assessments. Costs shall be assessed from time to time and shall be due and payable within fifteen (15) days of assessment. Assessment may be made prior to commencement of work.

8. Delinquencies. In the event any assessment becomes delinquent, such assessment together with interest at the rate of ten percent (10%) thereon shall constitute a continuing lien against the parcels of land whose Owners have not paid.

9. Agreement runs with the land. This Agreement shall be continuing and shall run with the land. The Agreement is binding upon the heirs, successors and assigns of the parties. This Agreement shall remain in effect until such time as city, county or state authorities shall undertake or agree to maintain such roadways or portions of the roadways described.

10. Amendment. This Agreement may be amended by written agreement; however, no amendment may be less strict or less inclusive than the provisions in this Agreement.

11. By entering this Agreement, the parties do not accept or admit liability for use of such roadway by any party or parties.

DATED THIS 24th day of April, 2007.

PARADISE ACRES PHASE 4 HOMEOWNERS:

Robert W. Bielby

Robert W. Bielby
Owner of Lot(s) _____

Carla J. Bielby

Carla J. Bielby
Owner of Lot(s) _____

Dennis Ruana

Dennis Ruana
Owner of Lot(s) _____

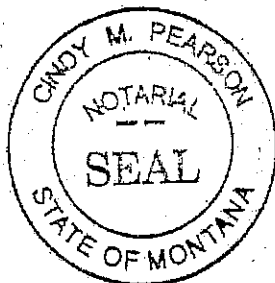
Joyce Ruana

Joyce Ruana
Owner of Lot(s) _____

STATE OF MONTANA)
County of Missoula) ss.

On this 24th day of April, 2007, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Robert W. Bielby and Carla J. Bielby, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

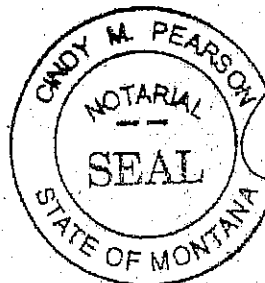


Cindy M. Pearson
Notary Public for the State of Montana
Print Name: Cindy M. Pearson
Residing at: Missoula
My Commission Expires: August 1, 2007

STATE OF MONTANA)
County of Missoula) ss.

On this 24th day of April, 2007, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Dennis Ruana and Joyce Ruana, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Cindy M. Pearson
Notary Public for the State of Montana
Print Name: Cindy M. Pearson
Residing at: Missoula
My Commission Expires: August 1, 2007

G:\a KSC\PA44 - Paradise Acres\7 Paradise IV Road Maintenance Agreement\04-20-07.Road Maintenance Agreement - Paradise Acres IV.kso.rtf

USE for all
districts.

EXHIBIT A-3

Hamilton Rural Fire DISTRICT

Consensus of All Valley Fire Council,
Ravalli County Planning Dept.
IC-05-09-1707
Post Office Box 1994 Hamilton, MT 59840

FIRE PROTECTION STANDARDS

The following Fire Protection Standards were adopted on September 6, 2005.

The Hamilton Rural Fire District has established the Fire Protection Standards for proposed new subdivisions within the district. The requirements were established with consideration for the life and safety of the residents of the district, as well as the volunteer firemen who protect the district, and to mitigate possible harm to the general public.

In establishing the requirements, emphasis was given to the NFPA 1, Chapter 18, The Ravalli County Subdivision Regulations, The Ravalli County Road Department Standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire - protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1, Chapter 18, and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given in the above-mentioned publications.

ACCESS ROADS

The Fire District requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the NFPA 1, Chapter 18, which reads in part:

18.2.2.3.1 Required Access. Fire Apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720-mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility.

18.2.2.5.1 Dimensions. Fire apparatus access roads shall have an unobstructed travel surface not less than 22-feet in width, which may include a two foot shoulder on each side of an 18-foot wide travel surface, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

18.2.2.5.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

18.2.2.5.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the fire chief. The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County which sets the maximum acceptable road grade at ten percent (10%).

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and Ravalli County Standards.

SPECIFIC REQUIREMENTS:

The Fire District requests that all lots (premises) meet the requirements of NFPA 1, Section 18.2.2.5.7 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above NFPA 1.

BUILDING STANDARDS

The Fire District will request that all buildings be built to IRBC codes in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

WATER SUPPLY

The water supply required by the NFPA 1 for one or two family dwellings, not exceeding 3,600 square feet, requires a flow rate of 1,000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2,500 gallons per lot, or 1,000 gallons per minute flow from municipal water systems.

In order to obtain and maintain a Class 5 ISO rating, the Hamilton Volunteer Fire Department is required to flow 500 gallons and maintain this flow for 120 minutes. By ISO standards this is usually sufficient to protect single-family dwellings with adequate spacing between structures. ISO uses the following flow rates, from their *Guide for Determination of Needed Fire Flow*, Chapter 7, when considering adequate coverage for density:

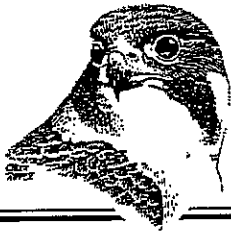
Distance Between Buildings	Needed Fire Flow
More than 100'	500 gpm
31 - 100'	750 gpm
11 - 30'	1,000 gpm
10' or less	1,500 gpm

The Hamilton Rural Fire District will use these fire flows for all subdivisions of single-family dwellings with less than 10 lots. All developments of single-family dwellings with 10 or more lots require a minimum of 1,000 gallons per minute. All commercial, industrial, or multi-family dwellings requiring higher fire flows will have to be engineered by the developer to determine needed fire flows.

Any development in the rural area, with density requiring more than the 500 gallons per minute being supplied by the Hamilton Volunteer Fire Department, will be requested to supply the difference. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$500.00 per lot will be due upon approval of the subdivision. The Fire District will use funds paid in lieu of the water supply required by the NFPA 1 to maintain or improve fire protection within the district, for the development of water supplies, or capital improvements.

EXCEPTIONS: 1. When all buildings in the subdivision are completely protected with an approved automatic sprinkler system, the above listed water supply and in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$250.00 payment, regardless of whether they have sprinklers in residences located on them or not.



FLORENCE
CARLTON
SCHOOL

FCS Home Page: www.florence.k12.mt.us

EXHIBIT A-4

5602 Old Hwy 93
Florence MT 59833

JOHN MCGEE
SUPERINTENDENT
Ph. (406) 273-6751

DANIEL GRABOWSKA
PRINCIPAL, GR. 9-12
Ph. (406) 273-6301

AUDREY BACKUS
PRINCIPAL, GR. 6-8
Ph. (406) 273-0587

VANCE VENTRESCA
PRINCIPAL, GR. K-5
Ph. (406) 273-6741

CHRISSY HULLA
ASST. PRINCIPAL, GR. K-5
Ph. (406) 273-6741

JULIE MASON
BUSINESS MANAGER
Ph. (406) 273-6751

February 14, 2008

Ravalli County Planning Board
215 S. 4th Street, Suite F
Hamilton, MT 59840

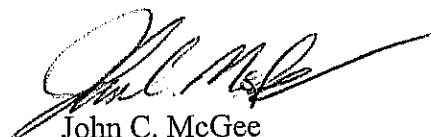
Re: Aplin Minor Subdivision

Dear Mr. Fiferick:

Your letter to the Florence-Carlton School District dated February 13, 2008 requested comments about the Aplin Minor Subdivision. In anticipation of this and other subdivisions, our district formed a Mitigation Fee Committee. This committee took an in depth look at the impact subdivisions would have on our district. They used information commonly requested by the county commissioners when reviewing subdivisions, and information from an August 8, 2006 Impact Fee Study completed for our district. You will find that the district is requesting a fee of \$10,418 per lot, and will file this request with the Ravalli County Planning Board. We also wish to have it on record that the District will not provide transportation services for any students who do live on county roads.

If you have any questions, please do not hesitate to contact me.

Sincerely,


John C. McGee
Superintendent

RECEIVED
FEB 19 2008
IC-08-02-154
Ravalli County Planning Dept.

Budget Per Pupil/Tax Levy Per Pupil

Year 2007-2008

School	Total Budget	Students October Count	Budget Per Pupil
Corvallis	9,246,716	1,413	6,544
Stevensville Elem	4,313,675	615	7,014
Stevensville HS	3,844,872	426	9,026
Hamilton	10,696,135	1,616	6,619
Victor	2,354,712	349	6,747
Darby	3,918,507	435	9,008
Lone Rock Elem	2,010,732	301	6,680
Florence	6,004,225	898	6,686

NOTE: 1. This does not include any federal funds or budget for federal programs. This makes these figures reflect budget and revenue only from state, county and local sources.

School	Total Tax Except Capital	Students October Count	County & State Levy*	Tax Levy Per Pupil Exc Capital	Total Capital	Per Pupil Tax Capital	Total Tax Levy Inc Capital	Tax Levy Per Pupil Inc Capital
Corvallis	1,894,368	1,413	941,511	2,007	166,126	117.57	3,002,005	2,125
Stevensville Elem	1,077,017	615	412,448	2,422	120,541	196.00	1,610,006	2,618
Stevensville HS	818,794	426	329,287	2,695			1,148,081	2,695
Hamilton	2,714,396	1,616	1,050,013	2,329	909,210	562.63	4,673,619	2,892
Victor	468,192	349	202,861	1,923	297,013	851.04	968,066	2,774
Darby	1,022,738	435	371,211	3,204		0.00	1,393,949	3,204
Lone Rock Elem	432,039	301	223,920	2,179	102,211	339.57	758,170	2,519
Florence	1,234,419	898	776,153	2,239	24,542	27.33	2,035,114	2,266

NOTE: * County levied Retirement and Transportation

RECEIVED

OCT 15 2007

IC-07-10-1305
Ravalli County Planning Dept.

Ravalli

County
MONTANA

RECEIVED

OCT 15 2007

Ravalli County Commissioners

--	--	--	--	--

October 15, 2007

James Rokosch, Chair
Ravalli County Commissioners
215 South 4th Street, Suite A
Hamilton, MT 59840

Dear Commissioner Rokosch,

In the last meeting of the Ravalli County Educational Transportation Committee a discussion was held concerning the new sub-divisions in Ravalli County. There was a great concern for the safety of the children who attend Ravalli County schools and who live with the varying conditions in the variety of subdivisions in the county.

Therefore, the group unanimously adopted a resolution requesting the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turn around if appropriate, at each subdivision entrance that is off the county owned and maintained road.

Sincerely,

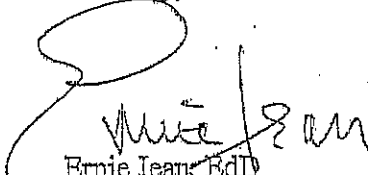
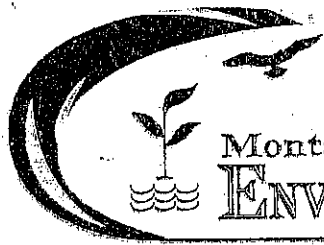

Ernie Jean, EdD
County Superintendent

EXHIBIT A-6



Montana Department of
ENVIRONMENTAL QUALITY

Brian Schweitzer, Governor

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

November 9, 2007

Dear Interested Party:

The U.S. Environmental Protection Agency (EPA) recently revised the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The NAAQS are nation-wide air quality standards established to protect the public from unhealthy levels of air pollution. EPA's revised PM NAAQS took effect on December 18, 2006.

The Montana Department of Environmental Quality (DEQ) evaluated air quality monitoring data across the state and determined that Missoula, Lincoln, and Ravalli Counties fail to meet the PM NAAQS. The Governor is required to notify EPA of all counties violating the PM NAAQS by December 18, 2007. EPA is then required to take final action on the Governor's recommended "nonattainment area" list by December 18, 2008 and officially confirm their status as nonattainment areas. As a consequence of EPA designation of nonattainment, Congress directs states to submit a federally enforceable air pollution control plan to EPA for approval.

In Ravalli County, new air quality regulations on motor vehicles, wood stoves, open burning, and industrial operations must be developed and will likely affect many county residents. Proactively, DEQ would like to work with local governments, the potentially regulated community, and other interested parties to identify and develop the new regulations to control the sources of particle matter air pollution in Ravalli County. DEQ representatives will hold the initial meeting with interested parties in the Ravalli County Commission meeting room on Wednesday, December 12, 2007 from 1 to 3 PM.

If you have any questions, please contact me or Bob Habeck (bhabeck@mt.gov or 444-7305). Please feel free to copy and distribute this notice to any parties you believe might be interested in this matter. Thank you for your efforts in protecting Ravalli County's clean air resource.

Robert K. Jeffrey
Air Quality Specialist
Air Resources Management Bureau
Montana Dept. of Environmental Quality
POB 200901 Helena, MT 59620-0901
Voice (406)444-5280; fax 444-1499
rjeffrey@mt.gov

EXHIBIT A-7



Montana Fish, Wildlife & Parks

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3099
Phone 406-542-5500
Fax 406-542-5529
February 28, 2008

Randy Fifrick
Ravalli County Planning Department
215 S. 4th, Ste. F
Hamilton, MT 59840

Reference: Aplin (Tract 1, CS 575056F)--Proposed minor (2 lots on 10.7 acres)
subdivision, about 3 miles east of Florence

Dear Mr. Fifrick:

We have reviewed the preliminary plat for this subdivision, and our comments follow.

1. This proposed subdivision is in the lower elevation hills leading up to the Sapphire Mountains, and it has a natural drainage flowing roughly east to west through proposed Lot 5. The natural drainage as well as wooded draws near this parcel, function as wildlife habitat as well as movement corridors for wildlife to move through this area. Wildlife such as white-tailed deer, mule deer, coyote, fox, and skunk are found in the area, and there is the potential presence of larger predatory wildlife such as black bear and mountain lion. Although this subdivision is in identified elk winter range (sitting near the border of the Miller-Eightmile and Eightmile-Ambrose survey units), it is about 2.5 miles west of the forested foothills and would not be heavily used by wintering elk. Numerous small mammal and bird species (including birds of prey) can be found nearby.
2. We believe there is a high likelihood of human/wildlife interactions at this location, particularly with black bears if residents do not pay careful attention to protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. We recommend that "living with wildlife" issues be conveyed in the covenants to future landowners of this subdivision, in order to help residents deal with and avoid potential wildlife issues. Attached is our recommended version of such covenants.
3. The US Geological Survey map for this area indicates a natural drainage that runs roughly east to west through Lot 5 of this subdivision. Last year Sharon Rose (our comments coordinator) communicated with the previous county planner for this proposal and/or the developer's representative regarding the status of this drainage, but cannot find

notes concerning such communication. Therefore, we are not sure about the current status of this drainage; but if there were seasonal water present and/or if riparian vegetation grows along the sides of this drainage, then in order to protect this natural drainage feature and its function, we suggest consideration of:

- a. Designating a 50-foot "no build/alteration" setback extending outward from each side of the centerline for this drainage;
- b. Delineating and labeling this setback on the plat; and
- c. Adding protective (riparian) covenants to guide the use of this area. (FWP could help with suggestions for guidelines.)

Thank you for providing the opportunity for FWP to comment on this subdivision. We apologize we were not able to submit these earlier.

Sincerely,

/s/ Mack Long SDR

Mack Long
Regional Supervisor

ML/sr

Development Covenants for Aplin minor subdivision, recommended by Montana Fish, Wildlife & Park; Missoula; February 28, 2008

Section __: Living with Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed, and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, magpie, and other species. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. All **garbage** should be stored indoors or in bear-resistant containers, structures or storage areas. If stored indoors, garbage cans should not be set out until the morning of garbage pickup, and should be taken back indoors that same day, after garbage has been picked up. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant containers or structures.
- d. **Bears** can be attracted to food smells associated with outdoor food storage; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.

- e. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- f. **Birdseed** is an attractant to bears. Consider not using bird feeders in this area from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined or indoors also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, skunks, and other wildlife. When **feeding pets and livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors, and permanent outdoor barbecues grills should not be used in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- k. **Compost piles** can attract skunks and bears and should be avoided in this subdivision. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.

- m. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Randy Fifrick

From: David Ohnstad
Sent: Wednesday, January 23, 2008 2:00 PM
To: Randy Fifrick
Subject: RE: Aplin Subdivision

At this time, the impacts to North Hidden Valley from the subject five unit project would likely be considered incidental and would not require further analysis. We would not oppose a variance relative to the easement status of North Hidden Valley. A pro-rata assessment would be required for Hidden Valley Road (county-operated).

Please note that future projects accessing the same route would be subject to further analysis.

From: Randy Fifrick
Sent: Wednesday, January 23, 2008 11:31 AM
To: David Ohnstad
Subject: Aplin Subdivision

David,

You recently agreed for the Remington Ridge subdivision that Hidden Valley Road North met county standards except for the unknown easement width. Terry Nelson has been talking with Gordon Sorenson and believes the same should apply for the 5-lot Aplin subdivision he is working on down Hidden Valley Road North. Is it acceptable from the RCRBD view if he submits a variance on the "legal" status of the easement of Hidden Valley Road North and a pro-rata payment on Hidden Valley Road?

Thanks,

*Randy Fifrick
Ravalli County Assistant Planner
215 S 4th St, Suite F
Hamilton, MT 59840
406-375-6530
rfifrick@ravallicounty.mt.gov*

3/3/2008

EXHIBIT A-9

Tristan Riddell

From: dan martin [dmartin@centric.net]
Sent: Wednesday, February 28, 2007 6:55 PM
To: Tristan Riddell
Subject: Alpin subdivision

Tristen,

I have recieved some info from you in regards to the above mentioned subdivision. The Florence Fire District requests that all roads be built to county standards. I feel the road width and grade are very important and need to be followed. If you have any questions feel free to contact me.

Dan Martin
Chief Florence Fire

February 27, 2008

Ravalli County Planning Department
215 So. 4th Street, Suite F
Hamilton, MT 59840
Randy Fifrick, Planner I

RE: Aplin Minor Subdivision & One Variance Request

Thank you very much for allowing my input on this proposed project. For background purposes let me tell you about my professional experience. I've been a Deputy Fire Chief in Northern California for the last 13 years, and a Fire Chief for 1 year with a total of 26 years in the fire service and an elementary school board member for the last 11 years. My responsibilities include subdivision planning and approval, land annexations, all types of emergency operational preparedness, etc. Our fire district and county is a very fast growing area with many poorly planned communities and circulation routes or lack thereof. We've achieved this by poor planning at the county level, variances and developers getting their way politically versus meeting the standards that we have written into the manuals, just like yours. I've written many letters to our Board of Supervisors to mitigate narrow roads, gravel roads, poor water systems, gated communities, poor building plans, high fire hazard areas, etc. For years these letters only served to put them on notice that they would be assuming all liability for not following their design standards and the problems they were creating. Well now after 10 years without a general plan and numerous lawsuits, our county has a new General plan that is very strict and includes some of the highest traffic impact fees in the country. If you haven't guessed it by now, here's how it happened, too many projects built without following design standards and too many variances granted. Granting variances just to help out a developer who is making a profit and usually a good one at that is a disservice to the development, the community and all the public services that have to try and do their jobs for or in that development.

Obviously by now you can see where I stand on the variances for this project. Having been in this project area in October of 2007, I can tell you there have been variances already granted on previous developments and if it continues more problems for the future will be created than you will ever be able to make up for. Road widths are minimal, road surfaces unacceptable for traffic counts, no public water for consumption or fire protection, and the size of some of the new construction in the area without a water supply will make your local fire district ineffective. Local schools in the area will eventually feel the impact of these developments. Are they ready for the growth that may be seen?

I've read the growth policy and your subdivision regulation manual and I don't see much difference between yours and ours. Where you can make a difference is you can make developers, no matter what size the project, implement the standards and do it right before you end up with gridlock, lawsuits, out of control development and developers who develop in your area, because it's easy and painless. Your blessed as we

EXHIBIT B-1

once where to live in such a beautiful area and I'm sure you would like it to stay that way.

Therefore, based on my experience, background and the extra burdens this development would place on an area that is already facing rapid growth, I would urge your denial of this development. Even if the variances were not requested, I believe this project has potential for flood related issues, fire and public safety service problems, etc. What is/are the developer doing to offset the increased services created by the increased building, occupancy numbers, etc? I know and believe in private property rights, but this goes both ways. You must protect them for your current population and protect your future residents by implementation of standards that help people protect and serve themselves.

You've obviously taken the time to develop policies, regulations and standards. Now do the right thing, enforce them, make those that wish to develop large parcels comply or no development. Again, thank you for this opportunity to hopefully give you some assistance and input.

If you have any questions, please feel free to contact me anytime

Sincerely,

Brian K. Veerkamp
Montana property owner
1707 Karen Way
Placerville, CA 95667
530-626-5732